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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/542,897	04/04/2000	Jerry H. Chisnell	FTP141A US	5716

21133 7590 07/22/2004

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Communication Re: Appeal**

**Application No.**

09/542,897

**Applicant(s)**

CHISNELL, JERRY H.

**Examiner**

Vishal Patel

**Art Unit**

3676

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

1. ☒ The Notice of Appeal filed on 19 April 2004 is not acceptable because:

- (a) ☐ it was not timely filed.
- (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
- (c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.
- (d) ☐ the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$\_\_\_\_\_.
- (e) ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
- (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.

2. ☐ The appeal brief filed on \_\_\_\_\_ is NOT acceptable for the reason(s) indicated below:

- (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 1.192.
- (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
- (c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$\_\_\_\_\_.

**The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).**

3. ☐ The appeal in this application is DISMISSED because:

- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
- (d) ☐ other: \_\_\_\_\_

4. ☐ Because of the dismissal of the appeal, this application:

- (a) ☐ is abandoned because there are no allowed claims.
- (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
- (c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

Art Unit: 3676

### DETAILED ACTION

***Reason for defective Appeal Brief:*** The section of appeal brief that includes the heading Grouping of claims is defective.

Applicant has not clearly stated the grouping of claims and has not specified in the Argument section the grouping of claims. For example applicant has argued claims 1, 2, 8 and 3 on pages 5 and 9 but has also argued claims 1, 2, 8 and 15 on page 6 and finally argued claims 1, 2 and 8 on pages 6-7. This makes it unclear to what applicant is considering as grouping of claims.

Furthermore not one claim is specifically argued in Issue B and C. Do claims all stand or fall together or do Issue B and Issue C stand or fall separately or do each claim stand or fall separately in Issue B and Issue C?

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is (703) 308-8495. The examiner can normally be reached on Monday through Friday from 7:30 PM to 4:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann, can be reached on (703) 306-4115.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168. Technology Center 3600 Customer Service is available at 703-308-1113. General Customer Service numbers are at 800-786-9199 or 703-308-9000. Fax Customer Service is available at 703-872-9325.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:** 703-872-9326, for formal communications for entry before Final action:  
or,  
703-872-9327, for formal communications for entry after Final action.

Art Unit: 3676

Hand-delivered responses should be brought to Crystal Park Five, 2451 Crystal Drive, Arlington, Virginia, Seventh Floor (Receptionist suite adjacent to the elevator lobby).

VP

July 20, 2004

Judy J. Swann  
Supervisory Patent Examiner  
Tech. Center 3600

A handwritten signature in black ink, appearing to read "Robert J. Sandy", written in a cursive style.

**ROBERT J. SANDY**  
**PRIMARY EXAMINER**